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7                   **UNITED STATES DISTRICT COURT**  
8                   **DISTRICT OF NEVADA**  
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10 MICHAEL RAY HUGHES,

11                 Plaintiff,

12 v.

13 LAS VEGAS METROPOLITAN POLICE  
14 DEPARTMENT, *et al.*,

15                 Defendants.

Case No. 2:09-CV-02381-KJD-LRL

**ORDER**

16                 Before the Court is Plaintiffs Motion to Reopen Case (#42).

17                 Plaintiff is a prisoner in Nevada Department of Corrections custody. On September 27, 2010,  
18 the Court issued an Order (#27) dismissing Plaintiff's action. Plaintiff appealed the dismissal to the  
19 Ninth Circuit. Plaintiff and Defendants reached a settlement before the Ninth Circuit heard the  
20 appeal, and the Ninth Circuit dismissed the appeal on September 16, 2011 (#38).

21                 Although it is not on the docket of this Court, Plaintiff appears to have filed a motion to  
22 reinstate the appeal and enforce the settlement agreement before the Ninth Circuit. On July 8, 2012,  
23 the Ninth Circuit issued an order denying the motion "without prejudice to filing an appropriate civil  
24 action in the district court."

Because this case is closed and because the settlement was reached while the issue was pending on appeal, the Court does not have jurisdiction to enforce the settlement agreement. See Kiefer v. Lithia Motors, Inc., 280 Fed.Appx. 606, 607 (9th Cir. 2008) (district court lacked jurisdiction because it did not retain it in order of dismissal or incorporate terms into order of dismissal) (quoting Kokkonen v. Guardian Life Ins. Co. of Am., 511 U.S. 375, 381 (1994)). Plaintiff's remedy is to file a new action to enforce the settlement agreement as directed by the Ninth Circuit.

Accordingly, **IT IS HEREBY ORDERED** that Plaintiff's Motion to Reopen Case (#42) is **DENIED**.

DATED this 4th day of September 2012.

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Kent J. Dawson  
United States District Judge